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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/539,919 | 10/24/2005 | Frank Hondmann | 2002P01464WOUS | 8423 |

46726 7590 10/23/2006

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INTELLECTUAL PROPERTY DEPARTMENT
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| EXAMINER |
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OREILLY, PATRICK F

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| ART UNIT | PAPER NUMBER |
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3749

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|-------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/539,919 | | HONDMANN ET AL. | |
| | Examiner | | Art Unit | |
| | Patrick F. O'Reilly III | | 3749 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>6/16/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

Information Disclosure Statement

1. The information disclosure statement filed June 16, 2005 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information of the following two patents, which are not in the English language: DE 44 43 176 C1 and DE 200 05 154 U1. It has been placed in the application file, but the information referred to in these two patents has not been considered.
2. Foreign patent number EP 0 840 063 A, which was included in the international search report, has not been considered because it was not listed in the information disclosure statement and no copy of this document has been provided in the English language.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claim 19 recites the limitation "said area" in line 2 of this claim. There is insufficient antecedent basis for this limitation in the claim. The "said area" of the side wall was not referred to in any of the preceding claims. For the purpose of an examination on the merits, the examiner has considered this as a recitation to "said part of one of said side walls [which] forms a section of the top of said housing".

6. Also, regarding claim 19, the word "can" in line 3 of the claim renders the claim indefinite because it is unclear whether the limitations following this word are part of the claimed invention. For the purpose of an examination on the merits, the examiner has considered "can" to mean that the top of said housing is "brought into engagement with at least one region of said ventilator container".

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by King (US 3,410,195). The specification and the drawings in the King reference disclose all of the elements recited in claims 13-19 of this application. In particular, the extractor hood housing described in Claim 13 of this application has the following components: (a) it contains at least one ventilator container, (b) the extractor hood housing serves as a housing for at least part of the ventilator container, (c) the ventilator container is arranged at least partly in the extractor hood housing, and (d) one section of the external wall of the extractor hood housing is formed by a portion of

the ventilator container. Figure 5, in King, which depicts a cross-sectional side elevation view of an exhaust hood, discloses all four of these components. First, in Figure 5, the ventilator container is denoted by reference character 43, which is referred by its analogous term, blower housing, in the King specification. The extractor hood housing, which is denoted by reference character 26 in Figure 5, serves as a housing for part of the ventilator container (blower housing 43). Specifically, the bell-shaped intake flange 48, which is part of the blower housing 43, is housed within the extractor hood housing (26). In this application, the inlet suction opening of the ventilator container, which performs the same exact function as the intake flange in King, is also housed within the extractor hood housing. Moreover, the ventilator container is arranged at least partly in the extractor hood housing because the intake flanges, a part of the ventilator container (blower housing 43), are arranged inside of the extractor hood housing (26). Furthermore, King discloses that one section of an external wall of the extractor hood housing is formed by a portion of the ventilator container. Specifically, in Figure 5, the portion of the ventilator container, which is directly to the left of reference character 42, forms a section of the external wall of the extractor hood housing. This section of the external housing wall is located directly beneath the outlet duct connection depicted in Figures 1, 2, and 5 of King. Therefore, because all of the components in Claim 13 of this application are disclosed by the King reference, this claim is rejected in accordance with 35 U.S.C. 102(b).

9. Claim 14 depends upon claim 13 and adds one additional element, namely that the section of the external wall of the hood housing, which is formed by a portion of the ventilator container, forms a top section of the hood housing. Claim 14 is anticipated for the same reason as claim 13 because the portion of the ventilator container in King, which comprises a section of

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the external wall of the extractor hood housing, also forms a top section of the hood housing. In Figure 5 of King, this portion of the ventilator container, which is located directly to the left of reference character 42, bends 90 degrees at its upper edge and then continues horizontally until it meets the outlet collar of the ventilator container. This horizontal external wall, which is between the bend and the outlet collar, forms a top section of the extractor hood housing in addition to forming a portion of the ventilator container.

10. Claim 15 depends upon claim 13 and adds one additional element, namely that the section of the external wall of the hood housing, which is formed by a portion of the ventilator container, is located in the area of a outlet connecting piece of said ventilator container. Claim 15 is anticipated for the same reason as claims 13 and 14 because the horizontal external wall located above reference character 42, and previously described in the preceding paragraph, is located directly to left of the outlet connecting piece (outlet collar) of the ventilator container. Refer to Figure 5 in King. Consequently, King also meets the language of this claim.

11. Claim 16 depends upon claim 13 and adds one additional element, namely that the section of the external wall of the hood housing, which is formed by a portion of the ventilator container, has the form of a plate. A “plate” is defined as “a smooth flat thin piece of material”. See Merriam-Webster Online Dictionary (<http://www.m-w.com/dictionary/plate>). Claim 16 is anticipated for the same reason as claims 13, 14, and 15 because the portion of the ventilator container, which forms a section of the extractor hood housing and is located directly to the left of reference character 42 in King, has the form of a plate. As shown in Figure 5, this portion of the ventilator container, which also forms one section of the front external wall of the extractor

hood housing, conforms to the previously recited definition of a plate because it is “a smooth flat thin piece of material”. Thus, King anticipates claim 16 as well.

12. Claim 17 depends upon claim 13 and adds one additional element, namely that the extractor hood housing includes two side walls and at least one part of one side wall forms a section of the top of the housing. Claim 17 is anticipated for the same reason as claims 13, 14, 15, and 16 because King discloses an extractor hood housing which includes two side walls that form a top section of the hood housing. Figures 1 and 2 in King both depict an extractor hood housing which includes two side walls that bend 90 degrees at their upper edges and thereby form a part of the top lower hood enclosure. In Figure 1, these side walls are located on the right and left side of the drip-proof louver (12). Consequently, King also meets the language set forth in claim 17.

13. Claim 18 depends upon claim 17 and adds one additional element, namely that one of the side walls described in claim 17 has a bent region at its upper edge. Claim 18 is anticipated for same reason as claim 17 because, as described in the preceding paragraph, the two side walls depicted in Figures 1 and 2 bend 90 degrees at their upper edges. Thus, the additional element contained in claim 18 is met.

14. Claim 19, like claim 18, also depends upon claim 17 and adds one additional element, namely that a part of the side wall, which forms a section of the top of the hood enclosure, is brought into engagement with at least one region of the ventilator container. Claim 19 is anticipated for the same reason as claim 17 because Figures 1 and 2 in King disclose that the two side walls, which form a top section of the hood housing, are brought into engagement with the

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two side walls of the ventilator container (blower housing 43). Therefore, the King reference also meets the language set forth in claim 19.

Conclusion

See attached form PTO-892 for additional pertinent prior art, which was not directly relied upon in this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick F. O'Reilly III whose telephone number is (571) 272-3424. The examiner can normally be reached on Monday-Friday, 8:30am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Josiah C. Cocks can be reached on (571) 272-4874. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JOSIAH C. COCKS
PRIMARY EXAMINER